

ADMINISTRATIVE - INTERNAL USE ONLY

3 October 1977

MEMORANDUM FOR: Executive Assistant, Office of Personnel

STATINTL

FROM : [REDACTED]
Chief, Review Staff, OP

SUBJECT : OGC Draft Response to Mr. [REDACTED] - Request
for Back Pay

STATINTL

1. I have a problem with the third reason (last three lines of the third paragraph) for denying the claim that "in any event. . . it is doubtful. . . that retroactive relief in the form of back pay could be granted. . . .".

2. If this applies only to this Agency's policies in that we don't grant retroactive promotions (except in EEO cases) I guess it is okay. However, if it refers to government policy, I think it is in error. CSC bulletin 300-40, dated 25 May 1977, states "the General Accounting Office affirmed its decision (B 183086 of December 5, 1975) awarding back pay for retroactive temporary promotions of employees detailed to higher graded positions beyond 120 days, . . . "etc. It goes on to say that temporary promotion is the mechanism for providing back pay award to an employee who has been improperly assigned. . . without appropriate compensation.

3. I think the letter stands without this particular reason and I would be concerned that citing it could bring about further discussion. The basic reason why the claim doesn't qualify under the Comp Gen Decisions is that the Agency is not part of the competitive service and is exempt from the CSC rules applying thereto, and we have no rules of our own which would require we make temporary promotions or compensate back pay in such cases. On the contrary our regulations provide for assignments to higher graded positions without corresponding promotions.

DISPATCHED

STATINTL

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